APPENDIX A

Seward, Alaska
May 18, 1959

AN OPEN LETTER TO THE
SEWARD SCHOOL BOARD
Seward, Alaska

Gentlemen:

A Seward Branch of the American Federation of Teachers, affiliated with the AFL CIO, has applied for and received confirmation of its charter. The AFT is a recognized organization of professional teachers and thereby commands recognition by the Seward School Board.

The Seward Local takes this means of informing the Seward School Board (and the public) of our stand in the current struggle for a good school. We hold that incidents occurring during the last year have reached such proportions as to be definitely derimental to the morale of our teaching staff and the effectiveness of the local educational system.

1. Illegal nonretention of three teachers, reflecting on the professional reputations of those involved, in violation of Section 138 of the State School Laws, which was later corrected only after the insistence of the Seward Local of the American Federation of Teachers in a public hearing with legal counsel.

2. It is a legitimate duty of administration to maintain or create harmony in the school, and the tension noted in the pupils, and the "friction" which some of them were aware of, does not fit this requirement.

3. Non compliance with the fire drill regulation requiring ten fire drills per year (Sec. III, b, 4, Page 9, Rules and Regulations for the school staff/local/). This applies to both school buildings, one of which is a dangerous building.

4. Ordering the custodian, Jesse Moore, to do technical electrical work beyond his skill in a dangerous building.

5. On different occasions threatening to "get one third of the faculty this year, and half of the remainder next year" in an apparent attempt to "purge" the faculty. Why Mr. Fabricius should have had this preconceived and hostile attitude is unknown. Teachers have raised the question, "How can one man, a stranger coming into a town, have the right to tamper with the livelihood of teachers, taxpayers, property owners, and upset a school system in a single year's time?" More than bringing teachers and others into public disgrace and disrespect, actions cited have jeopardized the property and investments of several people, without giving legitimate cause and without regard for their feelings and personal rights.

6. Provoking the resignation of an outstanding teacher by forbidding him to ride the school bus in what *seems* to be a violation of the intent of the Rules and Regulations Affecting School Transportation, Page 13, Item 31, Laws of the Territory, etc., the apparent authoritarian mishandling of this resignation impairing the teacher's chances for a teaching position elsewhere. This action has placed the School Board and the taxpayers in the possible position of a suit to secure payment of the contract.

7. Dictatorial treatment of teachers, forcing them into the choice of submitting and taking it at the loss of personal dignity, or fighting back in a public spectacle.

8. Speaking in a peremptory and threatening manner in the presence of a pupil, to Mr. Smith.

9. Two specific instances have occurred violating the requirement to provide Educational Leadership in the Local Regulations.

a. Neglect to permit the development of a proper music program.

b. Information relative to the Drama Festival held at Palmer was not made known to the teachers or the student body, although the school had participated ardently and with distinction the previous year.

c. This same requirement is violated in overtly or covertly driving out Mr. Conder, Mr. Swick, Mr. Smith, and possibly others who had a definite contribution to make to the functions of the school.

10. Firing of Mrs. Davis apparently on the basis of personal dislike rather than for dereliction of duty or inefficiency. This resulted in public discussion reflecting adversely on the school, and placed Mrs. Davis in the position of consulting an attorney relative to the collection of salary allegedly due her.

We have, or can secure, sworn statements on every item.

We, the Seward Local of the American Federation of Teachers, have made every effort to secure correction of illegal, unethical, and unfair acts on the assumption that when the School Board knew of them it would take corrective action.

On May 8, 1959, in a public meeting with the School Board, compliance with the law in the matter of nonretention was secured only after great opposition and protest that the "Law had not been tested, and some educators do not regard it as a good law."

At this same time we withheld information contained in this letter in order to keep the school functioning through the end of the school year and commencement.

We then invited the School Board to meet with us privately to clarify the items here presented, to give Mr. Fabricius and the School Board the opportunity to reply, and to

determine the quality of the list of administrative statements and actions. This, in effect, was giving Mr. Fabricius and the Board the opportunity for self defense which was denied the teachers who were not given contracts in April. We arranged a meeting time to suit the convenience of the Board, and our invitation was accepted.

With the exception of Mr. Howell, President, the Seward School Board DID NOT APPEAR, nor was the administration represented.

Therefore we request an immediate special open School Board meeting Tuesday night, May 19, for the purpose of presenting to the Board and the public particulars of administration in the Seward Public Schools, with announcement of the meeting by the Board over Station KIBH. At this time the Local shall demand immediate, guaranteed, substantial improvement in administrative policies including:

1. Validation of contracts offered to formerly nonretained teachers and those effected by additional education requirements.
2. Correction of the situation regarding Mr. Smith and Mr. Swick.
3. Avoidance of unreasonable reassignment of teachers wherever possible.
4. Conformity with standard ethical and professional standards personnel policies, such as outlined by AFT and NEA, especially regarding:
   a. Notification of teachers before their written notice of nonretention.
   b. Attempting to give constructive criticism to teachers, in an effort to correct and help personnel.

It is our sincere hope that, at this meeting, we can reach mutually acceptable solutions to the many problems facing us at this time.

Very truly yours,

SEWARD LOCAL
AMERICAN FEDERATION
OF TEACHERS

Copies: To patrons of the
Seward School.

APPENDIX B

SEWARD PUBLIC SCHOOLS
SEWARD, ALASKA

AMENDED DECISION AND FINDINGS OF FACT OF THE SEWARD SCHOOL BOARD UPHOLDING THE NONRETENTION OF WALTER B. BLUE AND JAMES WATTS

In compliance with the opinion and order of the Board of Appeals, State Board of Education, dated July 1, 1960, a rehearing was held by the Seward School Board on the nonretention of James Watts and Walter B. Blue as teachers in the Seward Public Schools for the school year of 1960 to 1961.

This hearing, commenced on November 4, 1960, continued on November 5 and November 11, and was completed on November 12, 1960. School Board members E. C. Casey, Mrs. Renee Skinner, A. G. McRae and E. Burke were present for the entire hearing. Donald A. Burr appeared as counsel for the School Board. Walter B. Blue and James Watts were present in in person and by their counsel, Mr. Peter B. Walton.

After considering all of the evidence, it is the unanimous finding of the Board that during May and June of 1959 both James Watts and Walter B. Blue (1) committed immoral acts which tended to bring them and the teaching profession into public disgrace or disrespect in that they circulated and published to the School Board in Seward, and to the public in Seward generally, a document entitled "An Open Letter to the School Board," which contained false and inaccurate statements about the Superintendent of Schools, George Fabricius; (2) committed immoral acts which tended to bring them and the teaching profession into public disgrace or disrespect, in that they aided in preparing, distributing and soliciting signatures for a petition for the recall of the Seward School Board members; and (3) failed to comply in a substantial fashion with Regulation E(7) of the Regulations of the Seward School Board in that they presented grievances and complaints directly to the School Board, rather than through the Superintendent of Schools, all of which charges are contained in the Notices of Nonretention and Bills of Particulars served on James Watts and Walter B. Blue.

After considering all of the evidence, it is the further unanimous finding of the Board that during the Spring of 1959 James Watts committed additional immoral acts which tended to bring him and the teaching profession into public disgrace or disrespect in that he solicited other faculty members of the Seward Public School System, namely, Monty Richardson, Benjamin Frampton and Margaret M. Frampton, to join a group, the purpose of which was to oust Superintendent George Fabricius from his job, all of which charges are contained in the Notice of Nonretention and Bill of Particulars served on James Watts.

After considering all of the evidence, it is the further unanimous Finding of the Board that Walter B. Blue committed additional immoral acts which tended to bring him

and the teaching profession into public disgrace or disrespect, in that he made a speech to the International Longshoremen & Warehousemen's Union in Seward, Alaska, in an attempt to gain popular support for a recall vote involving the Seward Public School Board members, in the course of which he told the union members that "We have been unable to get rid of the Superintendent, so we are going to get rid of the Board," or words to that effect, all of which charges are contained in the Notice of Nonretention and Bill of Particulars served on Walter B. Blue.

In support of the foregoing Findings, the Board has made detailed, specific Findings of Fact, which are attached hereto and made a part of this decision.

It is the unanimous decision of the Seward School Board, based on the foregoing Findings, that Walter B. Blue and James Watts not be retained for school year 1960 through 1961. It is further the unanimous decision of the Board that any one of the Board's findings of immorality or substantial noncompliance with Regulations of the School Board is a sufficient reason for nonretention, without reference to any other findings.

At a meeting of the Seward School Board held on ....., 1961, on motion made by ..... and seconded by ....., the foregoing Amended Decision and attached Findings were adopted by vote of the School Board. The recorded vote was as follows:

Mr. E. C. Casey	Yes
Mr. A. G. McRae	Yes
Mr. E. Burke	Yes
Mrs. Renee Skinner	Yes
Mr. Jacque Roth	No Vote

E. C. CASEY, *President*
Seward School Board
Seward, Alaska

Findings of Fact

1. Walter B. Blue and James Watts were teachers in the Seward Public Schools during the school years 1958 through 1959 and 1959 through 1960.

2. In March of 1960, notices of nonretention, accompanied by bills of particular, were duly served on Walter B. Blue and James Watts. Board Exhibits 1 and 2 are copies of said notices of nonretention and bills of particulars.

3. Board Exhibit 12 is a true and correct copy of all the School Board regulations of the Seward Public Schools which were in effect during the school years 1958 through 1959 and 1959 through 1960. Said regulations were adopted by the Seward School Board and put into force at least prior to January 1, 1959, although, through an oversight, this was not reflected in the School Board minutes prior to that date. (Board Exhibit 13.)

4. A copy of the regulations described in Finding 3 was furnished to each teacher in the Seward Public Schools, including teachers Watts and Blue, at some time prior to January 1, 1959. Teachers Watts and Blue were familiar with these regulations, including Regulation E(7), which provides as follows:

> "Grievances, complaints and communications from employees shall be submitted to the Board through the Superintendent. Any employee, or group of employees, may at any time appeal to the Board." (Board Exhibit 12; Transcript 14, 22, 28, 38, 65-6, 73.)

5. On or about May 18, 1959, teachers Watts and Blue actively participated in the preparation of an "Open Letter to the Seward School Board" and, further, actively participated in distributing copies of said letter to the members of the Seward School Board, to Superintendent George Fabricius, and to the public of Seward generally. Board Exhibit 7 is a copy of the "Open Letter to the Seward

School Board" so prepared and so distributed. (Transcript 34, 65-66, 41, 323.)

6. The Open Letter to the Seward School Board, described in the preceding finding, contained various charges by certain Seward School teachers, including teachers Watts and Blue, against Superintendent George Fabricius, which constituted grievances or complaints within the meaning of E(7) of the School Board Regulations. (Transcript 34, 65-66, 41, 323.)

7. None of the grievances or complaints enumerated in Board Exhibit 7 was presented to Superintendent George Fabricius prior to the distribution of the Open Letter to the Seward School Board on May 18, 1959. (Transcript 44-5, 119, et seq., 323.)

8. Teachers Watts and Blue were bound to substantially comply with the School Board Regulations (Board Exhibit 12) on and after May 18, 1959, the date of the distribution of the Board Exhibit 7, which was after the close of the school year but during a period when Watts and Blue were under contract to teach for the next school year.

9. The distribution of the Open Letter to the Seward School Board by teachers Watts and Blue was a violation of Regulation E(7) of the School Board Regulations.

10. Although the Open Letter to the Seward School Board was delivered to Superintendent George Fabricius at substantially the same time that it was delivered to members of the School Board, this procedure did not comply with the requirements of Rule E(7) of the School Board Regulations that grievances and complaints be submitted to the School Board through the Superintendent. (Transcript 349-50.)

11. The Board finds that Item 4 of Board Exhibit 7 referred to an altercation between Superintendent George Fabricius and the School Custodian, Jesse Moore, which

was aired before the School Board. Mr. Moore was not required to do technical electrical work beyond Mr. Moore's ability. (Appellant's Exhibit 7.)

12. Item 5 of Board Exhibit 7 is based on an allegation by James Watts that Superintendent George Fabricius told him that he would "get one-third of the faculty this year and half of the remainder next year." Superintendent George Fabricius did not make any such statement to Mr. Watts, nor to any other faculty member, and the charge to that effect is false. (The Board resolves the direct conflict in testimony between Mr. Fabricius and Mr. Watts on this point in favor of Mr. Fabricius, crediting the testimony of Mr. Fabricius and discrediting the testimony of Mr. Watts. This decision is based in part upon observation of the demeanor of the two witnesses.) (Transcript 121, 224, 269, 311, 387.)

13. The reference in Item 5 of Board Exhibit 7 to the jeopardizing by Superintendent George Fabricius of the property investments of several people without legitimate cause referred to the nonretention of a Seward teacher named Charles Brown. Mr. Brown was not retained by the Seward School system for the school year 1959 through 1960 for cause, because of his inability to maintain discipline among his students. The statement in Item 5 of Board Exhibit 7 to the effect that Superintendent George Fabricius jeopardized the property investments of several people without legitimate cause is false. (Transcript 57-60, 131.)

14. Item 6 of Board Exhibit 7 is a reference to the resignation of former school teacher Jack Condor. Mr. Condor tendered his resignation after an argument with Superintendent George Fabricius, during the course of which he was told by Superintendent George Fabricius that he would have to remain at school until 4:20 P.M., as required of all teachers, and that he would not be permitted to leave at 4:00 P.M. to ride the school bus home. Superintendent

George Fabricius did not forbid Mr. Condor to ride the school bus, in violation of rules and regulations affecting school transportation. The statement in Item 6 of Board Exhibi 7 that the above described incident seemingly constituted a violation of the intent of the rules and regulations affecting school transportation was false. (Transcript 122, 271, et seq., 366, Board Exhibit 17.)

15. Item 8 in Board Exhibit 7 refers to an incident occurring during the Spring of 1959 in which a teacher named Smith argued with Superintendent George Fabricius about the conduct of a study hall. We find, on the uncontroverted evidence, that Mr. Smith lost his temper with Superintendent George Fabricius and resigned. We find on all of the evidence that Superintendent George Fabricius did not act in a peremptory or threatening manner. We find, accordingly, that the statement in Item 8 of Board Exhibit 7 is false. (Transcript 123, 237.)

16. Item 9,c of Board Exhibit 7 charges that Mr. Codor, Mr. Swick and Mr. Smith were "driven out." We find on the record as a whole that Mr. Smith and Mr. Condor tendered their resignations and Mr. Swick, by his own actions, failed to renew his contract and was, therefore, terminated. The charge that the above three teachers were driven out is not supported by the record and we find that the charge is false. (Transcript 122-5, 272, et seq.)

17. The distribution of Board Exhibit 7, containing the false charges described in Findings 11, 12, 13, 14, 15 and 16, to the general public of Seward had a tendency to bring the teaching profession into public disgrace and disrespect, and constituted an act of immorality, as defined in Section 37-5-12, ACLA, 1949, as amended.

18. The distribution of Board Exhibit 7, containing false charges described in Findings 11, 12, 13, 14, 15 and 16, to the general public of Seward by Mr. Watts and Mr. Blue tended to bring Mr. Watts and Mr. Blue into public disgrace or disrespect.

19. On or about April 28, 1959, James Watts asked Mr. & Mrs. Benjamin Frampton, who at that time were members of the faculty of Seward Public Schools, if they would go along with a group of which Watts was a representative and whose purpose was to oust Mr. Fabricius from his job as Superintendent of Schools. (The Board resolves the conflict in testimony between Mr. & Mrs. Frampton and Mr. Watts in favor of Mr. & Mrs. Frampton, crediting their testimony and discrediting that of Mr. Watts. This decision is based in part on the demeanor of the individuals.) (Transcript 12, 20-21, 69-70.)

20. In the Spring of 1959, James Watts solicited Monty H. Richardson, who at that time was a school teacher in the Seward Public Schools, to join a group the purpose of which was to get rid of Mr. Fabricius as Superintendent of Schools. (Th eSchool Board resolved the conflict in testimony between Mr. Richardson and Mr. Watts in favor of Mr. Richardson, by crediting Mr. Richardson's testimony and discrediting the testimony of Mr. Watts. This decision is based in part upon the demeanor of the two witnesses.) (Transcript 22-4.)

21. The conduct of James Watts, described in Findings 19 and 20, tended to bring James Watts into public dispublic disgrace or disrespect.

22. The conduct of James Watts, described in Findings 19 and 20, tended to bring James aWtts into public disgrace or disrespect.

23. During a period beginning on or about May 28, 1959, and continuing into the month of June, 1959, James Watts and Walter B. Blue aided in preparing, distributing and soliciting signatures for a petition for the recall of the Seward School Board members (appellant's Exhibit 20; Board Exhibit 11; Transcript 66-7, 276).

24. The conduct of James Watts and Walter B. Blue described in Finding 23 tended to bring the teaching profession into public disgrace or disrespect.

25. The conduct of James Watts and Walter B. Blue described in finding 23 tended to bring James Watts and Walter B. Blue into public disgrace or disrespect.

26. In an attempt to gain popular support for a recall vote involving the Seward Public School Board members, Walter B. Blue made a speech to the International Longshoremen & Warehousemen's Union in Seward, Alaska, in which he stated, "We have been unable to get rid of the Superintendent, so we are going to get rid of the Board," or words to that effect (Board Exhibit 11; Transcript 48-9).

27. The conduct of Walter B. Blue described in Finding 26 tended to bring the teaching profession into public disgrace or disrespect.

28. The conduct of Walter B. Blue described in Finding 26 tended to bring Walter B. Blue into public disgrace or disrespect.

APPENDIX C

Constitution, Statute and Regulations Involved

United States Constitution:

Amendment I:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment XIV:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

AS 14.20.170, prior to amendment by S.L.A. 1966 chapter 104:

Definition of cause [for nonretention of teachers]. The term "cause" as used in section I above (37-5-11, herein) shall be based solely upon: (a) Incompetency which is defined as the inability or the unintentional or intentional failure to perform one's legitimate duties in a satisfactory manner; or (b) Immorality which is defined as conduct of the person tending to bring the individual concerned or the teaching profession into public disgrace or disrespect; or (c) Substantial noncompliance with the school laws of the Territory or such regulations of the Territorial Board of Education or any other governmental agency as are applicable or of the employing school district; except, that any necessary reduction of staff occasioned by a decrease in school attendance of the district may warrant, in the absence of any of the above reasons, the nonretention of a teacher.

Regulations:

Seward School Board Regulation E(7):

Grievances, complaints and communications from employees shall be submitted to the Board through the

Superintendent. Any employee or group of employees may at any time appeal to the Board.

Seward School Board Regulation E(9):

Employees or groups of employees desiring to address the Board shall address their communication to the Superintendent and not to individual members of the Board, except that copies of any communication may be sent to all Board members.